

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
Attorney Docket No. 13051US03 (ITW matter 20410)

## **PRE APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reasons stated on the attached sheets

Respectfully submitted,

Date: March 9, 2007

By: /Joseph M. Butscher/

Reg. No. 48,326

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## REMARKS

The present application includes pending claims 21-26, and 28-29. Claim 29 has been allowed, while claims 21-26, and 28 stand rejected. Claims 21-26, and 28 stand rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 5,673,041 (“Chatigny”) in view of United States Patent No. 6,492,978 (“Seilg”). The Applicants respectfully traverse these rejections for at least the following reasons:

Claim 21 of the present application recites, in part, “an acoustic wave absorbing material **disposed between** the deformable dome and the touch sensitive surface,” of an acoustic wave switch “such that in response to a force acting on the dome, the dome deforms and contacts the absorbing material and the absorbing material contacts the touch sensitive surface of the acoustic wave switch with sufficient pressure to actuate the acoustic wave switch.” Claim 24 recites, in part, an “acoustic wave absorbing material being spaced from the touch sensitive surface of the acoustic wave switch when the actuator is in an unactuated position and the acoustic wave absorbing material contacting the touch sensitive surface of the switch actuating the acoustic wave switch in response to a force acting on the actuator to move the acoustic wave absorbing material into actuating contact with the touch sensitive surface of the acoustic wave switch.”

However, Chatigny discloses a switch in which there is no acoustic wave absorbing material positioned over, or within, the substrate 16 or between the substrate 16 and the piezoelectric element 10. *See* February 8, 2007 Amendment at pages 5-9. Neither Chatigny (nor Selig) teaches or suggests “an acoustic wave absorbing material **disposed between** the deformable dome and the touch sensitive surface,” as recited in claim 21, or an **“actuator overlaying the touch sensitive surface of the acoustic wave switch and an acoustic wave absorbing material mounted on the actuator,”** as recited in claim 24. *See id.* Chatigny does not teach or suggest any acoustic wave absorbing material within the substrate 16, or in close proximity to the touch region 22. *See id.* at page 7.

The Office Action asserts that Chatigny discloses “an acoustic wave absorbing material (see finger at the surface (18) by absorbing some of the ultrasonic energy, see col. 4, lines 10-15)....” *See* November 15, 2006 Office Action at page 2. However, there is nothing

in this cited passage (or any other portion) of Chatigny that teaches or suggests an acoustic wave absorbing material positioned between a contact surface, such as a deformable dome, and a touch sensitive surface. *See* February 8, 2007 Amendment at pages 7-8. Moreover, the finger shown and described with respect to Figures 1 and 2 of Chatigny is clearly not part of the switch. *See id.* Even if one assumed that a human finger was the “absorbing agent,” as asserted in the Office Action, that finger still is not “disposed between [a] deformable dome and a touch sensitive surface,” as recited in claim 21, nor is it positioned under an “actuator,” as recited in claim 24. *See id.*

The proposed combination of Chatigny and Selig does not teach or suggest the limitations of claims 21 and 24 discussed above. *See id.* at pages 5-9. Thus, for at least these reasons, pending claims 21-26, and 28-29 should all be in condition for allowance.

The Applicants respectfully submit that the pending claims of the present application define patentable subject matter, and request reconsideration of the objections and rejections. The Commissioner is authorized to charge any necessary fees (including the \$500 fee for the Notice of Appeal, and the \$120 fee for the one month extension), or credit any overpayment to Account No. 13-0017.

Respectfully submitted,

Dated: March 9, 2007

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